

AMENDED IN ASSEMBLY JUNE 7, 2010

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN SENATE APRIL 12, 2010

AMENDED IN SENATE APRIL 7, 2010

SENATE BILL

No. 894

**Introduced by Committee on Local Government (Senators Cox
(Chair), Aanestad, DeSaulnier, Kehoe, and Price)**

January 25, 2010

An act to repeal Section 349½ of the Code of Civil Procedure, to add Section 17624.5 to the Education Code, to amend Sections 17600, 23110, 23124, 25214.2, 31010.5, 31479.1, 34873, 34875, 34900, 34901, 36508, 36511, 36515, 36516.1, 36516.5, 36804, 36811, 50271, 61116, 65063.7, 65920, 66000.5, and 66031 of, to add Sections 23221, 23296, 23302, ~~25503~~ 23503, 56103.5, 65107, 65801, and 66499.38 to, and to repeal Section 65924 of, the Government Code, to amend Sections 2074, 9074, 13897, 33080.2, 33445.1, 40225, 40326, 40526, 40751, 116183, and 117065 of, to amend and repeal Sections 32121 and 32126 of, and to add Section 33501.9 to, the Health and Safety Code, to amend Sections 20142, 20405, and 20688.6 of, and to add Sections 20614 and 20998 to, the Public Contract Code, to amend Section 5788.17 of, and to add Section 21167.9 to, the Public Resources Code, to add Sections 21670.6 and 29236 to the Public Utilities Code, to amend Section 99.02 of the Revenue and Taxation Code, to amend Sections 35424, 50655, and 50656 of the Water Code, and to amend Section 3.2 of Chapter 283 of the Statutes of 1973, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 894, as amended, Committee on Local Government. Local Government Omnibus Act of 2010.

(1) Existing law requires a challenge to the validity of any proceedings for the incorporation of a municipal corporation, the annexation of territory to a municipal corporation, or for the consolidation of municipal corporations, to be brought within 3 months after the completion of those proceedings.

This bill would repeal this requirement.

(2) Existing law authorizes the use of mediation in any action brought in the superior court relating to the approval or denial by a public agency of any development project, any act or decision of a public agency made pursuant to the California Environmental Quality Act, the failure of a public agency to meet the time limits specified by the Permit Streamlining Act or the Subdivision Map Act, fees levied against development projects by school districts or for construction or reconstruction of school facilities, fees for development projects, the adequacy of a general plan or specific plan, the validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law, the validity of any specified zoning decision, or the validity of any decision made pursuant by an Airport Land Use Commission, as specified.

This bill would include a cross-reference to this authorization in each of the affected provisions.

(3) Existing law requires the Commission on State Mandates to report to the Legislature, at least twice each calendar year, the number of mandates it has found and to identify in that report the statewide costs estimated for each mandate and the reasons for recommending the reimbursement.

This bill would also require the commission's report to include the status of pending parameters and guidelines that include proposed reasonable reimbursement methodologies, the status of joint proposals between the Department of Finance and a local agency or school district to develop reasonable reimbursement methodologies and statewide estimates of costs in lieu of parameters or to develop legislatively

determined mandate reimbursements, and any delay in the process of developing those reimbursement methodologies.

(4) Existing law sets forth the boundaries of Merced and Fresno Counties, as specified.

This bill would revise those boundary descriptions to reflect the current boundaries of those counties.

(5) Existing law, where the act authorizing an action by a public agency authorizes a validating proceeding, authorizes a public agency to bring an action in superior court to determine the validity of that action, within 60 days of the act. Existing law also authorizes any interested person, where a public agency has not commenced proceedings to determine the validity of an action, to bring an action against the public agency, within 60 days of the act, to determine the validity of the act.

This bill would authorize a county, or an interested person, as specified, to bring an action to determine the validity of any minor change to the boundaries of a county, a change, alteration, or reformation to the boundaries of a county, the formation of a county, or the consolidation of counties to within 60 days of any of those actions.

(6) Existing law authorizes a special district, until December 31, 2014, to issue securitized limited obligation note or notes to borrow money, upon a vote of $\frac{4}{5}$ of all the members of a governing body adopting a resolution specifying, among other things, the purpose of acquiring the indebtedness, the amount of indebtedness, and the manner of execution of the securitized limited obligation notes.

This bill would specify that a county service area, a community services district, a mosquito abatement district, a public cemetery district, a fire protection district, a recreation and park district, the San Francisco Bay Area Rapid Transit District, and the South Coast Air Quality Management District may issue a securitized limited obligation note or notes, and would declare that this authorization is declaratory of existing law.

(7) Existing law prohibits public officials from simultaneously holding two public offices that are incompatible subject to certain exceptions, including where the holding of a particular office is expressly authorized by law. Existing law specifies that service as an elected director of a recreation and park district is not considered an incompatible office with service on a municipal advisory council. Existing law also specifies that service as a municipal advisory counsel is not incompatible with service on a community services district board.

This bill would clarify that service on a community service district is not considered an incompatible office with service as a member of a municipal advisory council.

(8) Existing law specifies that any statutory reference to “councilman” or “councilmen” also means and includes “councilwoman” or “councilwomen.” Under existing law, the terms “councilman” or “councilmen” are used in various provisions, including, among others, the election of councilmen by or from districts, appointments made by councilmen, and service by councilmen on regional district boards. Existing law refers to the mayor as “he” or “him” with regard to attendance at meetings of a city selection committee.

This bill would revise those provisions to instead refer to “council member” and would refer to the mayor, only as “the mayor.”

(9) Existing law, the Local Health Care District Law, until January 1, 2011, authorizes each local district to, among other things, transfer, at fair market value, or lease any part of its assets to one or more corporations to operate and maintain the assets and requires the district to receive voter approval by the voters of the district if the transfer or lease includes 50% or more of the district’s assets, as specified.

This bill would eliminate that repeal date.

Existing law, beginning January 1, 2011, authorizes each local district to, among other things, transfer, at fair market value, or lease any part of its assets to one or more nonprofit corporations to operate and maintain the assets, and requires to district to receive voter approval by the voters of the district if the transfer or lease to one or more nonprofit corporations includes 50% or more of the district’s assets, as specified.

This bill would repeal this provision.

(10) Existing law requires a redevelopment agency to present an annual report to its legislative body within 6 months of the end of the agency’s fiscal year, and inform the legislative body of any major violations based on the independent financial audit report and that failure to correct a major violation may result in the filing of an action by the Attorney General.

This bill would revise these provisions to instead refer to any major audit violations.

(11) The Community Redevelopment Law authorizes a redevelopment agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of, any improvement that is publicly owned and is located outside, and not contiguous to, the project area, if that

improvement is located within the community, and if the legislative body makes specified findings. Existing law provides that this authorization is inapplicable, if the financing, construction, or installation of the land or improvement is an obligation of the agency under specified contracts.

This bill would modify that provision to instead provide that, if the financing, construction, or installation of the land or improvement is an obligation of the agency under specified contracts, the agency is authorized to pay all or a part of the value of the land and the cost of the installation and construction of the improvement, but only in accordance with the requirements of another specified provision of law.

(12) Existing law directs the air pollution control officer of an air pollution control district, subject to the direction of the board, to appoint district personnel.

This bill would direct the air pollution control officer, subject to the direction of the board, to appoint district personnel, including any deputies necessary for the prompt and faithful discharge of the air pollution control officer's duties.

(13) Existing law, until January 1, 2011, requires any state or local agency responding to an outbreak of West Nile virus or other mosquito-born disease with an abatement and surveillance program to contract with a local mosquito and vector control agency that is party to a cooperative agreement with the State Department of Public Health or directly with that department, to ensure that outbreak response is supervised appropriately and conducted by licensed personnel using sound integrated mosquito management techniques.

This bill would extend that requirement to January 1, 2012.

(14) Existing law authorizes a public agency that owns and operates a reservoir used for domestic or drinking water to post a copy of its rules and regulations in the area opened to public fishing and other recreational uses, and at least once in a newspaper of general circulation, as specified.

This bill would authorize an agency that amends its rules and regulations to similarly publish a summary of its amended rules and regulations, along with an Internet address and the physical location where the complete text of the amended rules and regulations may be viewed.

(15) Existing law authorizes the board of supervisors of a county to authorize the county engineer, or other county officer, to order changes or additions in the work being performed under construction contracts.

For contracts whose original cost exceeds \$250,000, the extra cost for any change or addition to the work ordered may not exceed \$25,000 plus 5% of the amount of the original contract cost in excess of \$250,000, and in no event may a change or alteration cost exceed \$150,000.

This bill would raise the maximum amount of the cost of the change for a contract with an original cost in excess of \$250,000 from \$150,000 to \$210,000.

(16) Existing law authorizes a board of supervisors to contract for the construction, maintenance and repair of a county bridge or subway by awarding the contract to the lowest responsible bidder, as specified.

This bill would authorize a board of supervisors in specified counties to authorize the road commissioner or a registered civil engineer under the direction of the county director of transportation, to execute changes or additions to the work for any contract. The bill would limit a change in contracts of less than \$50,000 to a change amount not to exceed \$5,000, in contracts of more than \$50,000 but less than \$250,000 not to exceed 10% of the amount of the original contract, and for contracts of more than \$250,000 not to exceed \$25,000 plus 5% of the cost of the original contract, and not more than \$210,000.

(17) Existing law requires county waterworks districts to award all contracts in excess of \$3,500 to the lowest responsible bidder, except that contracts under \$7,500 may be awarded pursuant to informal bidding procedures established by the board, as specified.

This bill would authorize the board of supervisors of a county and the board of directors of the district, to authorize the general manager or other district officer to order changes or additions in work being performed under contracts entered into by the district. The bill would limit a change in contracts of less than \$50,000 not to exceed \$5,000, in contracts of more than \$50,000 but less than \$250,000 not to exceed 10% of the amount of the original contract, and for contracts of more than \$250,000 not to exceed \$25,000 plus 5% of the cost of the original contract, and in no event more than \$210,000.

(18) Existing law, until January 1, 2016, authorizes a redevelopment agency, with the approval of its duly constituted board in a public hearing, to enter into design-build contracts for projects, as defined, in excess of \$1,000,000, in accordance with specified provisions.

This bill would correct an incorrect cross-reference in these provisions.

(19) Existing law requires the Los Angeles County Flood Control District to let to the lowest bidder all contracts for more than \$25,000, as specified, and does not authorize change orders to those contracts.

This bill would authorize the Los Angeles County Flood Control District to authorize the chief engineer or other district officer to order changes or additions in work being performed under contracts entered into by the district. The bill would limit a change in contracts of less than \$50,000 to a change amount not to exceed \$5,000, in contracts of more than \$50,000 but less than \$250,000 not to exceed 10% of the amount of the original contract, and for contracts of more than \$250,000 not to exceed \$25,000 plus 5% of the cost of the original contract, and not more than \$210,000.

(20) Existing law, commencing with the 1985–86 fiscal year, authorizes any local agency, by the adoption of a resolution of its governing body or board, to exchange any portion of its property tax revenues that is allocable to one or more tax rate areas within the local agency with one or more other local agencies that have the same tax rate areas, as specified, subject to specified restrictions.

This bill would instead authorize a local agency to transfer any portion of its property tax revenues that is allocable to one or more tax rate areas within the local agency to one or more other local agencies that have the same tax rate areas, as specified, subject to specified restrictions.

(21) Existing law specifies that if a water district had published equitable rules and regulations for the distribution of water once a week for 2 weeks in a newspaper of general circulation published in each affected county, any violation of those rules and regulations is a misdemeanor subject to a specified fine.

This bill would authorize a water district to publish a summary of amendments to the rules and regulations with an Internet address and a physical location where the complete text of the amended rules and regulations may be viewed.

(22) Existing law specifies the deadline for a public agency to determine whether an application for a development project received before January 1, 1978, or pending on January 1, 1978, is complete.

This bill would repeal that provision.

(23) Existing law requires the board of a reclamation district to adopt a seal of the district, as specified, and requires all documents that require approval by the board to bear that seal.

This bill would instead authorize the board to adopt and alter a seal, and would require all documents requiring approval by the board to bear the signature of either a trustee or the secretary.

(24) Existing law requires the board of the North Delta Water Agency to consist of 5 members, one from each of the 5 divisions in the agency, and each of whom must be an owner or legal representative of real property within the division he represents.

This bill would require board members to be elected by division, and only by the voters of that division, and would prohibit elections at large.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) This act shall be known and may be cited as
2 the Local Government Omnibus Act of 2010.

3 (b) The Legislature finds and declares that Californians want
4 their governments to run efficiently and economically and that
5 public officials should avoid waste and duplication whenever
6 possible. The Legislature further finds and declares that it desires
7 to control its own costs by reducing the number of separate bills.
8 Therefore, it is the intent of the Legislature in enacting this act to
9 combine several minor, noncontroversial statutory changes relating
10 to the common theme, purpose, and subject of local government
11 into a single measure.

12 SEC. 1.3. Section 349½ of the Code of Civil Procedure is
13 repealed.

14 SEC. 2. Section 17624.5 is added to the Education Code, to
15 read:

16 17624.5. Any action brought in the superior court relating to
17 this chapter may be subject to a mediation proceeding conducted
18 pursuant to Chapter 9.3 (commencing with Section 66030) of
19 Division 1 of Title 7 of the Government Code.

20 SEC. 2.5. Section 17600 of the Government Code is amended
21 to read:

22 17600. (a) At least twice each calendar year the commission
23 shall report to the Legislature on the number of mandates it has
24 found pursuant to Article 1 (commencing with Section 17550) and
25 the estimated statewide costs of these mandates. This report shall

1 identify the statewide costs estimated for each mandate and the
2 reasons for recommending reimbursement.

3 (b) The commission shall also include the following in the report
4 required by subdivision (a):

5 (1) The status of pending parameters and guidelines that include
6 proposed reasonable reimbursement methodologies, as defined in
7 Section 17518.5.

8 (2) The status of joint proposals between the Department of
9 Finance and a local agency or school district to develop reasonable
10 reimbursement methodologies and statewide estimates of costs in
11 lieu of parameters and guidelines, pursuant to Sections 17557.1
12 and 17557.2.

13 (3) The status of joint proposals between the Department of
14 Finance and a local agency or school district to develop
15 legislatively determined mandate reimbursements, pursuant to
16 Sections 17572 to 17574.5, inclusive.

17 (4) Any delays in the processes described in paragraphs (1) to
18 (3), inclusive.

19 SEC. 3. Section 23110 of the Government Code is amended
20 to read:

21 23110. The boundaries of Fresno County are as follows:

22 Beginning on the south line of Merced at a point where said line
23 crosses the San Joaquin River; thence south, 45 degrees west, and
24 on the line of Merced, to the centerline of a drain in the Southwest
25 Quarter of the Southwest Quarter of Section 6, T. 11 S., R. 13 E.,
26 M.D.B.&M; thence along said centerline southeasterly to the
27 centerline of Colony East Ditch Canal; thence southerly along said
28 centerline to the south line of the north half of the Southeast
29 Quarter of Section 7, said Township and Range; thence westerly
30 along said south line to the northeast corner of the west half of the
31 Southwest Quarter of said section; thence southerly along the east
32 line of said west half to the south line of said Section; thence
33 westerly along said line to the North Quarter corner of Section 18,
34 said Township and Range; thence southerly along the north-south
35 centerline of Section 18 and Section 19 to the south line of Section
36 19; thence westerly along said south line and the south line of
37 Sections 24 & 23 & 22 & 21 in T. 11 S., R. 12 E. to a point that
38 is south 45 degrees west from said line of Merced; thence south
39 45 degrees west to the eastern boundary line of San Benito; thence
40 southeasterly along said boundary line to the southeast corner of

1 T. 16 S. R. 12 E.; thence easterly along the south line of T. 16 S.
2 to the northeast corner of T. 17 S., R. 12 east; thence southerly
3 along the east line of R. 12 E. to the point where the summit line
4 of the Coast Range Mountains crosses the east line of R. 12 east
5 and continuing along said San Benito boundary along the summit
6 line to Monterey; thence continuing along the Monterey boundary
7 and said summit line in a southerly and southeasterly direction, to
8 a point in that boundary, which point is south 45 degrees west from
9 the point on Kings River where the northern line of T. 16 S. crosses
10 the Kings River; said point being the common corner of Fresno,
11 Monterey, and Kings; said corner point defined by survey recorded
12 in Book 42 of Record of Surveys at Pages 57 and 58, Fresno
13 County Records; thence along the Fresno-Kings boundary, as
14 defined by said survey north 47° 12' 09" east, to the northwest
15 corner of Section 19, T. 20 S., R. 19 E.; thence north along the
16 west line of R. 19 E. to the north line of T. 18 S.; thence east along
17 the north line of T. 18 S. to the centerline of Kings River; thence
18 easterly along the centerline of Kings River to the point that
19 intersects the south 45 degrees west boundary, said boundary is
20 south 45 degrees west from the point on Kings River where the
21 northern line of T. 16 S. crosses the Kings River; thence north 45
22 degrees east to the point on the Kings River where the northern
23 line of T. 16 S. crosses the Kings River; thence east along the
24 northern line of T. 16 S. and continuing on said line to the
25 northwest corner of T. 16 S., R. 25 E.; thence north to the northwest
26 corner of T. 15 S., R. 25 E.; thence east to the northeast corner of
27 T. 15 S., R. 27 E.; thence north to the northeast corner of T. 14 S.
28 of R. 27 E.; thence east on the line between T. 13 and 14 S. to the
29 summit of the Sierra Nevada Mountains, being the western line of
30 Inyo; thence northwesterly, on the summit line and lines of Inyo
31 and Mono, to the common corner of Mono, Madera, and Fresno;
32 thence southwesterly along the boundary of Madera to the point
33 where the San Joaquin River crosses the south boundary line of
34 T. 6 S., R. 24 E.; thence southwesterly and northwesterly following
35 the meanderings of said river to a point on the southerly boundary
36 of Merced, said point being the common corner of Fresno, Madera,
37 and Merced and the place of beginning.

38 SEC. 4. Section 23124 of the Government Code is amended
39 to read:

40 23124. The boundaries of Merced County are as follows:

Beginning at the northwest corner, being the southwest corner of Stanislaus as shown on the survey map of A. J. Stakes, 1868; thence northeasterly, on southern line of Stanislaus to common corner of Tuolumne, Mariposa, Merced, and Stanislaus; thence southeasterly, by direct line, being western line of Mariposa, to Phillips' ferry, on Merced River; thence southeasterly, on line of Mariposa, being line shown on "map of Mariposa County," to Newton's crossing on Chowchilla Creek, forming the southeast corner; thence down the northern side and on highwater mark, being on line of Madera to the lower clump of cottonwood timber at the sink of said creek; thence south, 45 degrees west, to the centerline of a drain in the Southwest Quarter of the Southwest Quarter of Section 6, Township 11 South, Range 13 east, M.D.B.&M; thence along said centerline southeasterly to the centerline of Colony East Ditch Canal; thence southerly along said centerline to the south line of the Northwest Quarter of the Southeast Quarter of Section 7, said Township and Range; thence westerly along said south line to the northeast corner of the west half of the Southwest Quarter of said section; thence southerly along the east line of said west half to the south line of said Section; thence westerly along said line to the North Quarter corner of Section 18, said Township and Range; thence southerly along the north-south centerline of said Section and Section 19 to the south line of Section 19; thence westerly along said south line and the south line of Sections 24 & 23 & 22 & 21 in Township 11 south, Range 12 East to a point that is south 45 degrees west from said clump of cottonwood timber; thence south 45 degrees west to the eastern line of San Benito, forming the southwest corner; thence northwesterly, by said line of San Benito and Santa Clara, to the place of beginning.

SEC. 4.1. Section 23221 is added to the Government Code, to read:

23221. Any action to determine the validity of any minor change to the boundaries of a county pursuant to this article shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 4.3. Section 23296 is added to the Government Code, to read:

23296. Any action to determine the validity of any change, alteration, or reformation to the boundaries of a county pursuant

1 to this article shall be brought pursuant to Chapter 9 (commencing
2 with Section 860) of Title 10 of Part 2 of the Code of Civil
3 Procedure.

4 SEC. 4.5. Section 23302 is added to the Government Code, to
5 read:

6 23302. Any action to determine the validity of the formation
7 of a county pursuant to this chapter shall be brought pursuant to
8 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
9 the Code of Civil Procedure.

10 SEC. 4.7. Section 23503 is added to the Government Code, to
11 read:

12 23503. Any action to determine the validity of the consolidation
13 of counties pursuant to this chapter shall be brought pursuant to
14 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
15 the Code of Civil Procedure.

16 SEC. 4.9. Section 25214.2 of the Government Code is amended
17 to read:

18 25214.2. (a) The board may accept any revenue, money, grants,
19 goods, or services from any federal, state, regional, or local agency
20 or from any person for any lawful purpose of the county service
21 area.

22 (b) In addition to any other existing authority, the board may
23 borrow money and incur indebtedness pursuant to Article 7
24 (commencing with Section 53820), Article 7.4 (commencing with
25 Section 53835), Article 7.5 (commencing with Section 53840),
26 Article 7.6 (commencing with Section 53850), and Article 7.7
27 (commencing with Section 53859) of Chapter 4 of Part 1 of
28 Division 2 of Title 5.

29 SEC. 5. Section 31010.5 of the Government Code is amended
30 to read:

31 31010.5. (a) Service as a member of a governing board of a
32 special district named in subdivision (b) shall not be considered
33 an incompatible office with service on a municipal advisory council
34 established pursuant to Section 31010.

35 (b) (1) A community services district established pursuant to
36 the Community Services District Law (Division 3 (commencing
37 with Section 61000) of Title 6).

38 (2) A recreation and park district established pursuant to the
39 Recreation and Park District Law (Chapter 4 (commencing with
40 Section 5780) of Division 5 of the Public Resources Code).

1 SEC. 6. Section 31479.1 of the Government Code is amended
2 to read:

3 31479.1. Notwithstanding Section 31479, an elective or
4 appointive county official may receive credit for service rendered
5 as a city council member even though that service was not
6 compensated.

7 This section shall not be operative in any county until it is
8 adopted by a majority vote of the board of supervisors.

9 SEC. 7. Section 34873 of the Government Code is amended
10 to read:

11 34873. An ordinance enacted pursuant to this article may be
12 amended or repealed in the same manner; provided, the term of
13 office of any council member elected shall not be affected.

14 SEC. 8. Section 34875 of the Government Code is amended
15 to read:

16 34875. The amendatory ordinance shall not be submitted to
17 the voters if (a) one or more of the legislative districts do not close,
18 (b) one or more entire legislative districts are eliminated prior to
19 the termination of the term of office of the council member of or
20 from the district, (c) the effect is that a greater number of council
21 members will be qualified to hold office concurrently than are
22 authorized by this article or the amendatory ordinance.

23 SEC. 9. Section 34900 of the Government Code is amended
24 to read:

25 34900. At any general municipal election, or at a special
26 election held for that purpose, the city council may submit to the
27 electors the question of whether electors shall thereafter elect a
28 mayor and four city council members, and whether the mayor shall
29 serve a two-year or four-year term. In cities presently having
30 elected mayors, the city council may also submit to the electors
31 the question of whether the mayor shall thereafter serve a two-year
32 or a four-year term.

33 SEC. 10. Section 34901 of the Government Code is amended
34 to read:

35 34901. The questions shall be printed on the ballots used at
36 the election in substantially the following form:

37 “Shall the electors elect a mayor and four city council
38 members?”

39 “Shall the term of office of mayor be two years?”

40 “Shall the term of office of mayor be four years?”

1 The words “Yes” and “No” and “two years” and “four years” shall
2 be so printed on the ballots that the voters may express their choice.
3 The term of office of mayor shall be that preferred by a majority
4 of those voting on the proposition.

5 SEC. 11. Section 36508 of the Government Code is amended
6 to read:

7 36508. At any municipal election, or a special election held
8 for that purpose, the city council may submit to the electors the
9 question whether the elective officers, or any of them except
10 council members, shall be appointed by the city council; provided,
11 however, that the city council shall not submit such question to
12 the electors more often than once in an 11-month period.

13 SEC. 12. Section 36511 of the Government Code is amended
14 to read:

15 36511. The petition for incorporation of a city may provide
16 for the appointment of the elective officers, or any of them except
17 council members. If it does, a separate election upon the question
18 need not be held, and upon incorporation the city council shall
19 appoint those officers.

20 SEC. 13. Section 36515 of the Government Code is amended
21 to read:

22 36515. The compensation of a city council member appointed
23 or elected to fill a vacancy is the same as that payable to the
24 member whose office was vacated.

25 SEC. 14. Section 36516.1 of the Government Code is amended
26 to read:

27 36516.1. A mayor elected pursuant to Sections 34900 to 34904,
28 inclusive, may be provided with compensation in addition to that
29 which he or she receives as a council member. That additional
30 compensation may be provided by an ordinance adopted by the
31 city council or by a majority vote of the electors voting on the
32 proposition at a municipal election.

33 SEC. 15. Section 36516.5 of the Government Code is amended
34 to read:

35 36516.5. A change in compensation does not apply to a council
36 member during the council member’s term of office. This
37 prohibition shall not prevent the adjustment of the compensation
38 of all members of a council serving staggered terms whenever one
39 or more members of the city council becomes eligible for a salary

1 increase by virtue of the council member beginning a new term of
2 office.

3 SEC. 16. Section 36804 of the Government Code is amended
4 to read:

5 36804. If the city clerk is absent, the deputy city clerk shall
6 act. If there is none, the mayor shall appoint one of the council
7 members as city clerk pro tempore.

8 SEC. 17. Section 36811 of the Government Code is amended
9 to read:

10 36811. If all council members are absent from any regular
11 meeting, the city clerk shall declare the meeting adjourned to a
12 stated day and hour. The city clerk shall cause a written notice of
13 the adjournment to be delivered personally to each council member
14 at least three hours before the adjourned meeting.

15 SEC. 17.5. Section 50271 of the Government Code is amended
16 to read:

17 50271. When the mayor is unable to attend a meeting of a city
18 selection committee, the mayor shall designate another member
19 of the city's legislative body to attend and vote at the meeting as
20 the mayor's representative.

21 SEC. 18. Section 56103.5 is added to the Government Code,
22 to read:

23 56103.5. Any action brought in the superior court relating to
24 this division may be subject to a mediation proceeding conducted
25 pursuant to Chapter 9.3 (commencing with Section 66030) of
26 Division 1 of Title 7.

27 SEC. 18.5. Section 61116 of the Government Code is amended
28 to read:

29 61116. (a) A district may accept any revenue, money, grants,
30 goods, or services from any federal, state, regional, or local agency
31 or from any person for any lawful purpose of the district.

32 (b) In addition to any other existing authority, a district may
33 borrow money and incur indebtedness pursuant to Article 7
34 (commencing with Section 53820), Article 7.4 (commencing with
35 Section 53835), Article 7.5 (commencing with Section 53840),
36 Article 7.6 (commencing with Section 53850), and Article 7.7
37 (commencing with Section 53859) of Chapter 4 of Part 1 of
38 Division 2 of Title 5.

39 SEC. 19. Section 65063.7 of the Government Code is amended
40 to read:

65063.7. No supervisor, mayor, or city council member shall hold office on the regional planning board after ceasing to hold the office of supervisor, mayor, or city council member, respectively, and that person's membership on the board shall thereafter be considered vacant, except that any mayor who continues to hold office as a city council member, or city council member who continues to hold office as mayor, shall not be considered to have ceased to hold office under this section.

SEC. 20. Section 65107 is added to the Government Code, to read:

65107. Any action brought in the superior court relating to this chapter may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030).

SEC. 21. Section 65801 is added to the Government Code, to read:

65801. Any action brought in the superior court relating to this chapter may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030).

SEC. 22. Section 65920 of the Government Code is amended to read:

65920. (a) This chapter shall be known and may be cited as the Permit Streamlining Act.

(b) Notwithstanding any other provision of law, the provisions of this chapter shall apply to all public agencies to the extent specified in this chapter, except that the time limits specified in Division 2 (commencing with Section 66410) of Title 7 shall not be extended by operation of this chapter.

(c) Any action brought in the superior court relating to this chapter may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030).

SEC. 22.5. Section 65924 of the Government Code is repealed.

SEC. 23. Section 66000.5 of the Government Code is amended to read:

66000.5. (a) This chapter, Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) shall be known and may be cited as the Mitigation Fee Act.

(b) Any action brought in the superior court relating to the Mitigation Fee Act may be subject to a mediation proceeding

1 conducted pursuant to Chapter 9.3 (commencing with Section
2 66030).

3 SEC. 24. Section 66031 of the Government Code is amended
4 to read:

5 66031. (a) Notwithstanding any other provision of law, any
6 action brought in the superior court relating to any of the following
7 subjects may be subject to a mediation proceeding conducted
8 pursuant to this chapter:

9 (1) The approval or denial by a public agency of any
10 development project.

11 (2) Any act or decision of a public agency made pursuant to the
12 California Environmental Quality Act (Division 13 (commencing
13 with Section 21000) of the Public Resources Code).

14 (3) The failure of a public agency to meet the time limits
15 specified in Chapter 4.5 (commencing with Section 65920),
16 commonly known as the Permit Streamlining Act, or in the
17 Subdivision Map Act (Division 2 (commencing with Section
18 66410)).

19 (4) Fees determined pursuant to Chapter 6 (commencing with
20 Section 17620) of Division 1 of Part 10.5 of the Education Code
21 or Chapter 4.9 (commencing with Section 65995).

22 (5) Fees determined pursuant to the Mitigation Fee Act (Chapter
23 5 (commencing with Section 66000), Chapter 6 (commencing with
24 Section 66010), Chapter 7 (commencing with Section 66012),
25 Chapter 8 (commencing with Section 66016), and Chapter 9
26 (commencing with Section 66020)).

27 (6) The adequacy of a general plan or specific plan adopted
28 pursuant to Chapter 3 (commencing with Section 65100).

29 (7) The validity of any sphere of influence, urban service area,
30 change of organization or reorganization, or any other decision
31 made pursuant to the Cortese-Knox-Hertzberg Local Government
32 Reorganization Act of 2000 (Division 3 (commencing with Section
33 56000) of Title 5).

34 (8) The adoption or amendment of a redevelopment plan
35 pursuant to the Community Redevelopment Law (Part 1
36 (commencing with Section 33000) of Division 24 of the Health
37 and Safety Code).

38 (9) The validity of any zoning decision made pursuant to Chapter
39 4 (commencing with Section 65800).

1 (10) The validity of any decision made pursuant to Article 3.5
2 (commencing with Section 21670) of Chapter 4 of Part 1 of
3 Division 9 of the Public Utilities Code.

4 (b) Within five days after the deadline for the respondent or
5 defendant to file its reply to an action, the court may invite the
6 parties to consider resolving their dispute by selecting a mutually
7 acceptable person to serve as a mediator, or an organization or
8 agency to provide a mediator.

9 (c) In selecting a person to serve as a mediator, or an
10 organization or agency to provide a mediator, the parties shall
11 consider the following:

12 (1) The council of governments having jurisdiction in the county
13 where the dispute arose.

14 (2) Any subregional or countywide council of governments in
15 the county where the dispute arose.

16 (3) Any other person with experience or training in mediation
17 including those with experience in land use issues, or any other
18 organization or agency that can provide a person with experience
19 or training in mediation, including those with experience in land
20 use issues.

21 (d) If the court invites the parties to consider mediation, the
22 parties shall notify the court within 30 days if they have selected
23 a mutually acceptable person to serve as a mediator. If the parties
24 have not selected a mediator within 30 days, the action shall
25 proceed. The court shall not draw any implication, favorable or
26 otherwise, from the refusal by a party to accept the invitation by
27 the court to consider mediation. Nothing in this section shall
28 preclude the parties from using mediation at any other time while
29 the action is pending.

30 SEC. 25. Section 66499.38 is added to the Government Code,
31 to read:

32 66499.38. Any action brought in the superior court relating to
33 this division may be subject to a mediation proceeding conducted
34 pursuant to Chapter 9.3 (commencing with Section 66030) of
35 Division 1.

36 SEC. 25.1. Section 2074 of the Health and Safety Code is
37 amended to read:

38 2074. (a) A district may accept any revenue, money, grants,
39 goods, or services from any federal, state, regional, or local agency
40 or from any person for any lawful purpose of the district.

(b) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

~~SEC. 25.3.~~

SEC. 25.2. Section 9074 of the Health and Safety Code is amended to read:

9074. (a) A district may accept any grants, goods, money, property, revenue, or services from any federal, state, regional, or local agency or from any person for any lawful purpose of the district.

(b) Except as provided by Section 9077, all moneys received or collected by a district shall be paid into a separate fund in the county treasury on or before the 10th day of the month following the month in which the district received or collected the money.

(c) In addition to any other existing authority, a district may borrow money and incur indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

~~SEC. 25.5.~~

SEC. 25.3. Section 13897 of the Health and Safety Code is amended to read:

13897. A district may borrow money and incur indebtedness pursuant to the authority contained in Article 7 (commencing with Section 53820), Article 7.4 (commencing with Section 53835), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

~~SEC. 25.4.~~

SEC. 25.4. Section 32121 of the Health and Safety Code, as amended by Section 1 of Chapter 20 of the Statutes of 2007, is amended to read:

1 32121. Each local district shall have and may exercise the
2 following powers:

3 (a) To have and use a corporate seal and alter it at its pleasure.

4 (b) To sue and be sued in all courts and places and in all actions
5 and proceedings whatever.

6 (c) To purchase, receive, have, take, hold, lease, use, and enjoy
7 property of every kind and description within and without the
8 limits of the district, and to control, dispose of, convey, and
9 encumber the same and create a leasehold interest in the same for
10 the benefit of the district.

11 (d) To exercise the right of eminent domain for the purpose of
12 acquiring real or personal property of every kind necessary to the
13 exercise of any of the powers of the district.

14 (e) To establish one or more trusts for the benefit of the district,
15 to administer any trust declared or created for the benefit of the
16 district, to designate one or more trustees for trusts created by the
17 district, to receive by gift, devise, or bequest, and hold in trust or
18 otherwise, property, including corporate securities of all kinds,
19 situated in this state or elsewhere, and where not otherwise
20 provided, dispose of the same for the benefit of the district.

21 (f) To employ legal counsel to advise the board of directors in
22 all matters pertaining to the business of the district, to perform the
23 functions in respect to the legal affairs of the district as the board
24 may direct, and to call upon the district attorney of the county in
25 which the greater part of the land in the district is situated for legal
26 advice and assistance in all matters concerning the district, except
27 that if that county has a county counsel, the directors may call
28 upon the county counsel for legal advice and assistance.

29 (g) To employ any officers and employees, including architects
30 and consultants, the board of directors deems necessary to carry
31 on properly the business of the district.

32 (h) To prescribe the duties and powers of the health care facility
33 administrator, secretary, and other officers and employees of any
34 health care facilities of the district, to establish offices as may be
35 appropriate and to appoint board members or employees to those
36 offices, and to determine the number of, and appoint, all officers
37 and employees and to fix their compensation. The officers and
38 employees shall hold their offices or positions at the pleasure of
39 the boards of directors.

1 (i) To do any and all things that an individual might do that are
2 necessary for, and to the advantage of, a health care facility and a
3 nurses' training school, or a child care facility for the benefit of
4 employees of the health care facility or residents of the district.

5 (j) To establish, maintain, and operate, or provide assistance in
6 the operation of, one or more health facilities or health services,
7 including, but not limited to, outpatient programs, services, and
8 facilities; retirement programs, services, and facilities; chemical
9 dependency programs, services, and facilities; or other health care
10 programs, services, and facilities and activities at any location
11 within or without the district for the benefit of the district and the
12 people served by the district.

13 "Health care facilities," as used in this subdivision, means those
14 facilities defined in subdivision (b) of Section 32000.1 and
15 specifically includes freestanding chemical dependency recovery
16 units. "Health facilities," as used in this subdivision, may also
17 include those facilities defined in subdivision (d) of Section 15432
18 of the Government Code.

19 (k) To do any and all other acts and things necessary to carry
20 out this division.

21 (l) To acquire, maintain, and operate ambulances or ambulance
22 services within and without the district.

23 (m) To establish, maintain, and operate, or provide assistance
24 in the operation of, free clinics, diagnostic and testing centers,
25 health education programs, wellness and prevention programs,
26 rehabilitation, aftercare, and any other health care services provider,
27 groups, and organizations that are necessary for the maintenance
28 of good physical and mental health in the communities served by
29 the district.

30 (n) To establish and operate in cooperation with its medical
31 staff a coinsurance plan between the hospital district and the
32 members of its attending medical staff.

33 (o) To establish, maintain, and carry on its activities through
34 one or more corporations, joint ventures, or partnerships for the
35 benefit of the health care district.

36 (p) (1) To transfer, at fair market value, any part of its assets
37 to one or more corporations to operate and maintain the assets. A
38 transfer pursuant to this paragraph shall be deemed to be at fair
39 market value if an independent consultant, with expertise in
40 methods of appraisal and valuation and in accordance with

1 applicable governmental and industry standards for appraisal and
2 valuation, determines that fair and reasonable consideration is to
3 be received by the district for the transferred district assets. Before
4 the district transfers, pursuant to this paragraph, 50 percent or more
5 of the district's assets to one or more corporations, in sum or by
6 increment, the elected board shall, by resolution, submit to the
7 voters of the district a measure proposing the transfer. The measure
8 shall be placed on the ballot of a special election held upon the
9 request of the district or the ballot of the next regularly scheduled
10 election occurring at least 88 days after the resolution of the board.
11 If a majority of the voters voting on the measure vote in its favor,
12 the transfer shall be approved. The campaign disclosure
13 requirements applicable to local measures provided under Chapter
14 4 (commencing with Section 84100) of Title 9 of the Government
15 Code shall apply to this election.

16 (2) To transfer, for the benefit of the communities served by
17 the district, in the absence of adequate consideration, any part of
18 the assets of the district, including, without limitation, real property,
19 equipment, and other fixed assets, current assets, and cash, relating
20 to the operation of the district's health care facilities to one or more
21 nonprofit corporations to operate and maintain the assets.

22 (A) A transfer of 50 percent or more of the district's assets, in
23 sum or by increment, pursuant to this paragraph shall be deemed
24 to be for the benefit of the communities served by the district only
25 if all of the following occur:

26 (i) The transfer agreement and all arrangements necessary
27 thereto are fully discussed in advance of the district board decision
28 to transfer the assets of the district in at least five properly noticed
29 open and public meetings in compliance with Section 32106 and
30 the Ralph M. Brown Act (Chapter 9 (commencing with Section
31 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

32 (ii) The transfer agreement provides that the hospital district
33 shall approve all initial board members of the nonprofit corporation
34 and any subsequent board members as may be specified in the
35 transfer agreement.

36 (iii) The transfer agreement provides that all assets transferred
37 to the nonprofit corporation, and all assets accumulated by the
38 corporation during the term of the transfer agreement arising out
39 of, or from, the operation of the transferred assets, are to be

1 transferred back to the district upon termination of the transfer
2 agreement, including any extension of the transfer agreement.

3 (iv) The transfer agreement commits the nonprofit corporation
4 to operate and maintain the district's health care facilities and its
5 assets for the benefit of the communities served by the district.

6 (v) The transfer agreement requires that any funds received
7 from the district at the outset of the agreement or any time
8 thereafter during the term of the agreement be used only to reduce
9 district indebtedness, to acquire needed equipment for the district
10 health care facilities, to operate, maintain, and make needed capital
11 improvements to the district's health care facilities, to provide
12 supplemental health care services or facilities for the communities
13 served by the district, or to conduct other activities that would
14 further a valid public purpose if undertaken directly by the district.

15 (B) A transfer of 10 percent or more but less than 50 percent of
16 the district's assets, in sum or by increment, pursuant to this
17 paragraph shall be deemed to be for the benefit of the communities
18 served by the district only if both of the following occur:

19 (i) The transfer agreement and all arrangements necessary
20 thereto are fully discussed in advance of the district board decision
21 to transfer the assets of the district in at least two properly noticed
22 open and public meetings in compliance with Section 32106 and
23 the Ralph M. Brown Act (Chapter 9 (commencing with Section
24 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

25 (ii) The transfer agreement meets all of the requirements of
26 clauses (iii) to (v), inclusive, of subparagraph (A).

27 (C) Before the district transfers, pursuant to this paragraph, 50
28 percent or more of the district's assets to one or more nonprofit
29 corporations, in sum or by increment, the elected board shall, by
30 resolution, submit to the voters of the district a measure proposing
31 the transfer. The measure shall be placed on the ballot of a special
32 election held upon the request of the district or the ballot of the
33 next regularly scheduled election occurring at least 88 days after
34 the resolution of the board. If a majority of the voters voting on
35 the measure vote in its favor, the transfer shall be approved. The
36 campaign disclosure requirements applicable to local measures
37 provided under Chapter 4 (commencing with Section 84100) of
38 Title 9 of the Government Code shall apply to this election.

39 (D) Notwithstanding the other provisions of this paragraph, a
40 hospital district shall not transfer any portion of its assets to a

1 private nonprofit organization that is owned or controlled by a
2 religious creed, church, or sectarian denomination in the absence
3 of adequate consideration.

4 (3) If the district board has previously transferred less than 50
5 percent of the district's assets pursuant to this subdivision, before
6 any additional assets are transferred, the board shall hold a public
7 hearing and shall make a public determination that the additional
8 assets to be transferred will not, in combination with any assets
9 previously transferred, equal 50 percent or more of the total assets
10 of the district.

11 (4) The amendments to this subdivision made during the
12 1991–92 Regular Session, and the amendments made to this
13 subdivision and to Section 32126 made during the 1993–94 Regular
14 Session, shall only apply to transfers made on or after the effective
15 dates of the acts amending this subdivision. The amendments to
16 this subdivision made during those sessions shall not apply to
17 either of the following:

18 (A) A district that has discussed and adopted a board resolution
19 prior to September 1, 1992, that authorizes the development of a
20 business plan for an integrated delivery system.

21 (B) A lease agreement, transfer agreement, or both between a
22 district and a nonprofit corporation that were in full force and effect
23 as of September 1, 1992, for as long as that lease agreement,
24 transfer agreement, or both remain in full force and effect.

25 (5) Notwithstanding paragraph (4), if substantial amendments
26 are proposed to be made to a transfer agreement described in
27 subparagraph (A) or (B) of paragraph (4), the amendments shall
28 be fully discussed in advance of the district board's decision to
29 adopt the amendments in at least two properly noticed open and
30 public meetings in compliance with Section 32106 and the Ralph
31 M. Brown Act (Chapter 9 (commencing with Section 54950) of
32 Part 1 of Division 2 of Title 5 of the Government Code).

33 (6) Notwithstanding paragraphs (4) and (5), a transfer agreement
34 described in subparagraph (A) or (B) of paragraph (4) that provided
35 for the transfer of less than 50 percent of a district's assets shall
36 be subject to the requirements of this subdivision when subsequent
37 amendments to that transfer agreement would result in the transfer,
38 in sum or by increment, of 50 percent or more of a district's assets
39 to the nonprofit corporation.

1 (7) For purposes of this subdivision, a “transfer” means the
2 transfer of ownership of the assets of a district. A lease of the real
3 property or the tangible personal property of a district shall not be
4 subject to this subdivision except as specified in Section 32121.4
5 and as required under Section 32126.

6 (8) Districts that request a special election pursuant to paragraph
7 (1) or (2) shall reimburse counties for the costs of that special
8 election as prescribed pursuant to Section 10520 of the Elections
9 Code.

10 (9) (A) Nothing in this section, including subdivision (j), shall
11 be construed to permit a local district to obtain or be issued a single
12 consolidated license to operate a separate physical plant as a skilled
13 nursing facility or an intermediate care facility that is not located
14 within the boundaries of the district.

15 (B) Notwithstanding subparagraph (A), Eastern Plumas Health
16 Care District may obtain and be issued a single consolidated license
17 to operate a separate physical plant as a skilled nursing facility or
18 an intermediate care facility that is located on the campus of the
19 Sierra Valley District Hospital. This subparagraph shall have no
20 application to any other district and is intended only to address the
21 urgent need to preserve skilled nursing or intermediate care services
22 within the rural County of Sierra.

23 (C) Subparagraph (B) shall only remain operative until the Sierra
24 Valley District Hospital is annexed by the Eastern Plumas Health
25 Care District. In no event shall the Eastern Plumas Health Care
26 District increase the number of licensed beds at the Sierra Valley
27 District Hospital during the operative period of subparagraph (B).

28 (10) A transfer of any of the assets of a district to one or more
29 nonprofit corporations to operate and maintain the assets shall not
30 be required to meet paragraphs (1) to (9), inclusive, of this
31 subdivision if all of the following conditions apply at the time of
32 the transfer:

33 (A) The district has entered into a loan that is insured by the
34 State of California under Chapter 1 (commencing with Section
35 129000) of Part 6 of Division 107.

36 (B) The district is in default of its loan obligations, as determined
37 by the Office of Statewide Health Planning and Development.

38 (C) The Office of Statewide Health Planning and Development
39 and the district, in their best judgment, agree that the transfer of
40 some or all of the assets of the district to a nonprofit corporation

1 or corporations is necessary to cure the default, and will obviate
2 the need for foreclosure. This cure of default provision shall be
3 applicable prior to the office foreclosing on district hospital assets.
4 After the office has foreclosed on district hospital assets, or
5 otherwise taken possession in accordance with law, the office may
6 exercise all of its powers to deal with and dispose of hospital
7 property.

8 (D) The transfer and all arrangements necessary thereto are
9 discussed in advance of the transfer in at least one properly noticed
10 open and public meeting in compliance with Section 32106 and
11 the Ralph M. Brown Act (Chapter 9 (commencing with Section
12 54950) of Part 1 of Division 2 of Title 5 of the Government Code).
13 The meeting referred to in this paragraph shall be noticed and held
14 within 90 days of notice in writing to the district by the office of
15 an event of default. If the meeting is not held within this 90-day
16 period, the district shall be deemed to have waived this requirement
17 to have a meeting.

18 (11) If a transfer under paragraph (10) is a lease, the lease shall
19 provide that the assets shall revert to the district at the conclusion
20 of the leasehold interest. If the transfer is a sale, the proceeds shall
21 be used first to retire the obligation insured by the office, then to
22 retire any other debts of the district. After providing for debts, any
23 remaining funds shall revert to the district.

24 (12) A health care district shall report to the Attorney General,
25 within 30 days of any transfer of district assets to one or more
26 nonprofit or for-profit corporations, the type of transaction and the
27 entity to whom the assets were transferred or leased.

28 (q) To contract for bond insurance, letters of credit, remarketing
29 services, and other forms of credit enhancement and liquidity
30 support for its bonds, notes, and other indebtedness and to enter
31 into reimbursement agreements, monitoring agreements,
32 remarketing agreements, and similar ancillary contracts in
33 connection therewith.

34 (r) To establish, maintain, operate, participate in, or manage
35 capitated health care service plans, health maintenance
36 organizations, preferred provider organizations, and other managed
37 health care systems and programs properly licensed by the
38 Department of Insurance or the Department of Managed Care, at
39 any location within or without the district for the benefit of
40 residents of communities served by the district. However, that

1 activity shall not be deemed to result in, or constitute, the giving
2 or lending of the district's credit, assets, surpluses, cash, or tangible
3 goods to, or in aid of, any person, association, or corporation in
4 violation of Section 6 of Article XVI of the California Constitution.

5 Nothing in this section shall be construed to authorize activities
6 that corporations and other artificial legal entities are prohibited
7 from conducting by Section 2400 of the Business and Professions
8 Code.

9 Any agreement to provide health care coverage that is a health
10 care service plan, as defined in subdivision (f) of Section 1345,
11 shall be subject to Chapter 2.2 (commencing with Section 1340)
12 of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

13 A district shall not provide health care coverage for any
14 employee of an employer operating within the communities served
15 by the district, unless the Legislature specifically authorizes, or
16 has authorized in this section or elsewhere, the coverage.

17 Nothing in this section shall be construed to authorize any district
18 to contribute its facilities to any joint venture that could result in
19 transfer of the facilities from district ownership.

20 (s) To provide health care coverage to members of the district's
21 medical staff, employees of the medical staff members, and the
22 dependents of both groups, on a self-pay basis.

23 ~~SEC. 25.3.~~

24 *SEC. 25.5.* Section 32121 of the Health and Safety Code, as
25 amended by Section 2 of Chapter 20 of the Statutes of 2007, is
26 repealed.

27 ~~SEC. 25.5.~~

28 *SEC. 25.6.* Section 32126 of the Health and Safety Code, as
29 amended by Section 4 of Chapter 194 of the Statutes of 2005, is
30 amended to read:

31 32126. (a) The board of directors may provide for the operation
32 and maintenance through tenants of the whole or any part of any
33 hospital acquired or constructed by it pursuant to this division, and
34 for that purpose may enter into any lease agreement that it believes
35 will best serve the interest of the district. A lease entered into with
36 one or more corporations for the operation of 50 percent or more
37 of the district's hospital, or that is part of, or contingent upon, a
38 transfer of 50 percent or more of the district's assets, in sum or by
39 increment, as described in subdivision (p) of Section 32121, shall
40 be subject to the requirements of subdivision (p) of Section 32121.

1 Any lease for the operation of any hospital shall require the tenant
2 or lessee to conform to, and abide by, Section 32128. No lease for
3 the operation of an entire hospital shall run for a term in excess of
4 30 years. No lease for the operation of less than an entire hospital
5 shall run for a term in excess of 10 years.

6 (b) Notwithstanding any other provision of law, a sublease, an
7 assignment of an existing lease, or the release of a tenant or lessee
8 from obligations under an existing lease in connection with an
9 assignment of an existing lease shall not be subject to the
10 requirements of subdivision (p) of Section 32121 so long as all of
11 the following conditions are met:

12 (1) The sublease or assignment of the existing lease otherwise
13 remains in compliance with subdivision (a).

14 (2) The district board determines that the total consideration
15 that the district shall receive following the assignment or sublease,
16 or as a result thereof, taking into account all monetary and other
17 tangible and intangible consideration to be received by the district
18 including, without limitation, all benefits to the communities served
19 by the district, is no less than the total consideration that the district
20 would have received under the existing lease.

21 (3) The existing lease was entered into on or before July 1, 1984,
22 upon approval of the board of directors following solicitation and
23 review of no less than five offers from prospective tenants.

24 (4) If substantial amendments are made to an existing lease in
25 connection with the sublease or assignment of that existing lease,
26 the amendments shall be fully discussed in advance of the district
27 board's decision to adopt the amendments in at least two properly
28 noticed open and public meetings in compliance with Section
29 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with
30 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
31 Code).

32 (c) A health care district shall report to the Attorney General,
33 within 30 days of any lease of district assets to one or more
34 corporations, the type of transaction and the entity to whom the
35 assets were leased.

36 SEC. 25.7. Section 32126 of the Health and Safety Code, as
37 added by Section 5 of Chapter 194 of the Statutes of 2005, is
38 repealed.

39 SEC. 26. Section 33080.2 of the Health and Safety Code is
40 amended to read:

1 33080.2. (a) When the agency presents the annual report to
2 the legislative body pursuant to Section 33080.1, the agency shall
3 inform the legislative body of any major audit violations of this
4 part based on the independent financial audit report. The agency
5 shall inform the legislative body that the failure to correct a major
6 audit violation of this part may result in the filing of an action by
7 the Attorney General pursuant to Section 33080.8.

8 (b) The legislative body shall review any report submitted
9 pursuant to Section 33080.1 and take any action it deems
10 appropriate on that report no later than the first meeting of the
11 legislative body occurring more than 21 days from the receipt of
12 the report.

13 SEC. 26.5. Section 33445.1 of the Health and Safety Code is
14 amended to read:

15 33445.1. (a) Notwithstanding Section 33440, an agency may,
16 with the consent of the legislative body, pay all or a part of the
17 value of the land for and the cost of the installation and construction
18 of any building, facility, structure, or other improvement that is
19 publicly owned and is located outside and not contiguous to the
20 project area, but is located within the community, if the legislative
21 body finds, based on substantial evidence in the record, all of the
22 following:

23 (1) The acquisition of the land or the installation or construction
24 of the buildings, facilities, structures, or other improvements that
25 are publicly owned are of primary benefit to the project area.

26 (2) The acquisition of the land or the installation or construction
27 of the buildings, facilities, structures, or other improvements that
28 are publicly owned benefits the project area by helping to eliminate
29 blight within the project area, or will directly assist in the provision
30 of housing for low- or moderate-income persons.

31 (3) No other reasonable means of financing the acquisition of
32 the land or the installation or construction of the buildings,
33 facilities, structures, or other improvements that are publicly
34 owned, are available to the community, including, but not limited
35 to, general obligation bonds, revenue bonds, special assessment
36 bonds, or bonds issued pursuant to the Mello-Roos Community
37 Facilities Act of 1982 (Chapter 2.5 (commencing with Section
38 53311) of Part 1 of Division 2 of Title 5 of the Government Code).
39 In determining whether other means of financing are feasible, the

1 legislative body may take into account any relevant factors,
2 including, but not limited to:

3 (A) Legal factors, such as the eligibility of the improvements
4 for funding under the governing statutes.

5 (B) Economic factors, such as prevailing interest rates and
6 market conditions.

7 (C) Political factors, such as the priority of commitments of
8 other public funding sources, the ability or willingness of property
9 owners or taxpayers to bear the cost of any special assessments,
10 taxes, or other charges, and the likelihood of obtaining voter
11 approval, if required.

12 (4) The payment of funds for the acquisition of land or the cost
13 of buildings, facilities, structures, or other improvements that are
14 publicly owned is consistent with the implementation plan adopted
15 pursuant to Section 33490.

16 (5) The acquisition of land and the installation of each building,
17 facility, structure, or improvement that is publicly owned is
18 provided for in the redevelopment plan.

19 (b) An agency shall not pay for the normal maintenance or
20 operations of buildings, facilities, structures, or other improvements
21 that are publicly owned. Normal maintenance or operations do not
22 include the construction, expansion, addition to, or reconstruction
23 of, buildings, facilities, structures, or other improvements that are
24 publicly owned otherwise undertaken pursuant to this section.

25 (c) An action to challenge the findings required by this section
26 shall be filed and served within 60 days after the date of the
27 resolution containing the findings.

28 (d) The provisions of this section shall not apply and the
29 provisions of Section 33445 shall apply if the financing,
30 construction, or installation of the land, buildings, facilities,
31 structures, or other improvements is an obligation of the agency
32 under a contract existing on December 31, 2009, specifically
33 described in the implementation plan prepared by the agency as
34 of July 1, 2009, pursuant to Section 33490, or specifically provided
35 for in the redevelopment plan as of December 31, 2009.

36 SEC. 27. Section 33501.9 is added to the Health and Safety
37 Code, to read:

38 33501.9. Any action brought in the superior court relating to
39 the adoption or amendment of a redevelopment plan may be subject
40 to a mediation proceeding conducted pursuant to Chapter 9.3

1 (commencing with Section 66030) of Division 1 of Title 7 of the
2 Government Code.

3 SEC. 28. Section 40225 of the Health and Safety Code is
4 amended to read:

5 40225. No supervisor, mayor, or city council member shall
6 hold office on the bay district board for a period of more than three
7 months after ceasing to hold the office of supervisor, mayor, or
8 city council member, respectively, and his or her membership on
9 the bay district board shall thereafter be considered vacant, except
10 that any mayor who continues to hold office as a city council
11 member, or any city council member who continues to hold office
12 as a mayor, shall not be considered to have ceased to hold office
13 under this section.

14 SEC. 29. Section 40326 of the Health and Safety Code is
15 amended to read:

16 40326. No supervisor, mayor, or city council member shall
17 hold office on a regional district board for a period of more than
18 three months after ceasing to hold the office of supervisor, mayor,
19 or city council member, respectively, and his or her membership
20 on the regional district board shall thereafter be considered vacant,
21 except that any mayor who continues to hold office as a city council
22 member, or any city council member who continues to hold office
23 as a mayor, shall not be considered to have ceased to hold office
24 under this section.

25 SEC. 29.3. Section 40526 of the Health and Safety Code is
26 amended to read:

27 40526. (a) The south coast district board may borrow money
28 and incur indebtedness in anticipation of the revenue for the current
29 year in which the indebtedness is incurred or for the ensuing year.
30 Such indebtedness shall not exceed the total amount of the
31 estimated revenue for either the current year or the ensuing year.

32 (b) In addition to any other existing authority, the district may
33 borrow money and incur indebtedness pursuant to Article 7.4
34 (commencing with Section 53835) of Chapter 4 of Part 1 of
35 Division 2 of Title 5 of the Government Code.

36 SEC. 29.5. Section 40751 of the Health and Safety Code is
37 amended to read:

38 40751. Subject to the direction of the district board, the air
39 pollution control officer shall appoint district personnel, including

1 any deputies necessary for the prompt and faithful discharge of
2 the air pollution control officer's duties.

3 SEC. 29.7. Section 116183 of the Health and Safety Code is
4 amended to read:

5 116183. (a) The Legislature finds and declares that cooperative
6 agreements between the State Department of Public Health and
7 local vector control districts help to ensure that all state and federal
8 requirements regarding the use of pesticides are met and provide
9 participating agencies with the flexibility to perform their legally
10 mandated role to control mosquito and other public health vectors.

11 (b) To ensure public health and safety, any state or local agency
12 responding to an outbreak of West Nile virus or other
13 mosquito-borne disease with an abatement and surveillance
14 program shall, and any federal agency so responding is encouraged
15 to, contract with a local mosquito and vector control agency that
16 is party to a cooperative agreement with the State Department of
17 Public Health or shall consult directly with the State Department
18 of Public Health to ensure that outbreak response is supervised
19 appropriately and conducted by licensed personnel using sound
20 integrated mosquito management techniques.

21 (c) For the purposes of this section, "outbreak" means the
22 occurrence of cases of a disease or illness above the expected or
23 baseline level, usually over a given period of time, in a geographic
24 area or facility, or in a specific population group. The number of
25 cases indicating the presence of an outbreak will vary according
26 to the disease agent, size and type of population exposed, previous
27 exposure to the agent, and the time and place of exposure.

28 (d) This section shall remain in effect only until January 1, 2012,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2012, deletes or extends that date.

31 SEC. 30. Section 117065 of the Health and Safety Code is
32 amended to read:

33 117065. The public agency shall cause a copy of the rules and
34 regulations to be posted upon the area opened to public fishing
35 and other recreational uses, and it shall cause the rules and
36 regulations to be published at least once in a newspaper of general
37 circulation published in the county in which the reservoir is in
38 whole or in part situated, if there be a newspaper, otherwise in a
39 newspaper of general circulation published within the area of the
40 public agency. If a public agency amends its rules and regulations,

1 the public agency shall similarly publish a summary of its amended
2 rules and regulations, along with an Internet address and the
3 physical location where the complete text of the amended rules
4 and regulations may be viewed. Posting and publication shall be
5 sufficient notice to all persons. The affidavit of the secretary, clerk,
6 or corresponding officer of the public agency that the rules and
7 regulations have been so posted and published is prima facie
8 evidence thereof. A copy of the rules and regulations, attested by
9 the secretary, clerk, or corresponding officer of the public agency
10 shall be prima facie evidence that the regulations have been made
11 by the public agency as provided by law.

12 SEC. 31. Section 20142 of the Public Contract Code is amended
13 to read:

14 20142. (a) The board of supervisors may, by ordinance,
15 resolution, or board order, authorize the county engineer, or other
16 county officer, to order changes or additions in the work being
17 performed under construction contracts. When so authorized, any
18 change or addition in the work shall be ordered in writing by the
19 county engineer, or other designated officer, and the extra cost to
20 the county for any change or addition to the work so ordered shall
21 not exceed five thousand dollars (\$5,000) when the total amount
22 of the original contract does not exceed fifty thousand dollars
23 (\$50,000), nor 10 percent of the amount of any original contract
24 that exceeds fifty thousand dollars (\$50,000), but does not exceed
25 two hundred fifty thousand dollars (\$250,000).

26 (b) For contracts whose original cost exceeds two hundred fifty
27 thousand dollars (\$250,000), the extra cost for any change or
28 addition to the work so ordered shall not exceed twenty-five
29 thousand dollars (\$25,000), plus 5 percent of the amount of the
30 original contract cost in excess of two hundred fifty thousand
31 dollars (\$250,000). In no event shall any such change or alteration
32 exceed two hundred ten thousand dollars (\$210,000).

33 SEC. 32. Section 20405 of the Public Contract Code is amended
34 to read:

35 20405. (a) The board shall afford all bidders an opportunity
36 to examine the plans, specifications, and working details, and shall
37 award the contract to the lowest responsible bidder. The board
38 may provide by resolution that the bids be opened, examined, and
39 declared by an officer designated in the resolution. The resolution
40 shall require that the bids be opened at a public meeting called by

1 the officer and that the results of the bidding be reported to the
2 board at a subsequent regular board meeting. The notice inviting
3 bids shall state the time and place of the public meeting and the
4 name of the designated officer.

5 (b) All bids for construction work shall be presented under
6 sealed cover and shall be accompanied by one of the following
7 forms of bidder's security:

8 (1) Cash.

9 (2) A cashier's check made payable to the county.

10 (3) A certified check made payable to the county.

11 (4) A bidder's bond executed by an admitted surety insurer,
12 made payable to the county.

13 Upon an award to the lowest bidder, the security of an
14 unsuccessful bidder shall be returned in a reasonable period of
15 time, but in no event shall that security be held by the county
16 beyond 60 days from the time the award is made.

17 (c) The person to whom the contract is awarded shall execute
18 a bond, approved by the board, for the faithful performance of the
19 contract. The person shall perform the work in accordance with
20 the plans, specifications, and working details, unless all or any of
21 them are modified by a four-fifths vote of the members of the
22 board. In that case, if the cost of the work is reduced by reason of
23 the modification, the person to whom the contract is awarded shall
24 make an allowance on the contract price to the extent of the
25 reduction.

26 (d) In any county that has appointed a road commissioner
27 pursuant to Section 2006 of the Streets and Highways Code, or in
28 any county that has abolished the office of road commissioner and
29 complied with Section 2006.1 of the Streets and Highways Code,
30 the board may authorize the road commissioner, or a registered
31 civil engineer under the direction of the county director of
32 transportation, to execute changes or additions to the work for any
33 contract made pursuant to this article in an amount not to exceed:

34 (1) For contracts whose original cost is less than fifty thousand
35 dollars (\$50,000), the amount of the change or addition shall not
36 exceed five thousand dollars (\$5,000).

37 (2) For contracts whose original cost is fifty thousand dollars
38 (\$50,000), but less than two hundred fifty thousand dollars
39 (\$250,000), the amount of the change or addition shall not exceed
40 10 percent of the amount of the cost of the original contract.

1 (3) For contracts whose original cost is two hundred fifty
2 thousand dollars (\$250,000) or more, the amount of the change or
3 addition shall not exceed twenty-five thousand dollars (\$25,000),
4 plus 5 percent of the amount of the cost of the original contract
5 that is in excess of two hundred fifty thousand dollars (\$250,000).
6 In no event shall any change or addition exceed two hundred ten
7 thousand dollars (\$210,000).

8 SEC. 33. Section 20614 is added to the Public Contract Code,
9 to read:

10 20614. The board of supervisors and the board of directors of
11 the district, if any, may, by ordinance, resolution, or board order,
12 authorize the general manager or other district officer to order
13 changes or additions in the work being performed under contracts
14 made pursuant to this article in an amount not to exceed:

15 (a) For contracts whose original cost is less than fifty thousand
16 dollars (\$50,000), the amount of the change or addition shall not
17 exceed five thousand dollars (\$5,000).

18 (b) For contracts whose original cost is fifty thousand dollars
19 (\$50,000), but less than two hundred fifty thousand dollars
20 (\$250,000), the amount of the change or addition shall not exceed
21 10 percent of the amount of the cost of the original contract.

22 (c) For contracts whose original cost is two hundred fifty
23 thousand dollars (\$250,000) or more, the amount of the change or
24 addition shall not exceed twenty-five thousand dollars (\$25,000),
25 plus 5 percent of the amount of the cost of the original contract
26 that is in excess of two hundred fifty thousand dollars (\$250,000).
27 In no event shall any change or addition exceed two hundred ten
28 thousand dollars (\$210,000).

29 SEC. 34. Section 20688.6 of the Public Contract Code is
30 amended to read:

31 20688.6. (a) (1) Notwithstanding any other law, an agency,
32 with approval of its duly constituted board in a public hearing,
33 may utilize an alternative procedure for bidding on projects in the
34 community in excess of one million dollars (\$1,000,000) and may
35 award the project using either the lowest responsible bidder or by
36 best value.

37 (2) Only 10 design-build projects shall be authorized under this
38 section.

39 (b) (1) It is the intent of the Legislature to enable entities as
40 provided in Part 1 (commencing with Section 33000) of Division

1 24 of the Health and Safety Code to utilize design-build for those
2 infrastructure improvements authorized in Sections 33421, 33445,
3 and 33445.1 of the Health and Safety Code and subject to the
4 limitations on that authority described in Section 33421.1 of the
5 Health and Safety Code.

6 (2) The Legislature also finds and declares that utilizing a
7 design-build contract requires a clear understanding of the roles
8 and responsibilities of each participant in the design-build process.

9 (3) (A) For contracts awarded prior to the effective date of
10 either the regulations adopted by the Department of Industrial
11 Relations pursuant to subdivision (b) of Section 1771.55 of the
12 Labor Code or the fees established by the department pursuant to
13 subparagraph (B), if the board elects to proceed under this section,
14 the board shall establish and enforce for design-build projects a
15 labor compliance program containing the requirements outlined
16 in Section 1771.5 of the Labor Code, or it shall contract with a
17 third party to operate a labor compliance program containing the
18 requirements outlined in Section 1771.5 of the Labor Code. This
19 requirement shall not apply to any project where the agency or the
20 design-build entity has entered into any collective bargaining
21 agreement or agreements that bind all of the contractors performing
22 work on the projects.

23 (B) For contracts awarded on or after the effective date of both
24 the regulations adopted by the Department of Industrial Relations
25 pursuant to subdivision (b) of Section 1771.55 of the Labor Code
26 and the fees established by the department pursuant to this
27 subparagraph, if the board elects to proceed under this section it
28 shall pay a fee to the department, in an amount that the department
29 shall establish, and as it may from time to time amend, sufficient
30 to support the department's costs in ensuring compliance with and
31 enforcing prevailing wage requirements on the project, and labor
32 compliance enforcement as set forth in subdivision (b) of Section
33 1771.55 of the Labor Code. All fees collected pursuant to this
34 subdivision shall be deposited in the State Public Works
35 Enforcement Fund, created by Section 1771.3 of the Labor Code,
36 and shall be used only for enforcement of prevailing wage
37 requirements on those projects.

38 (C) The Department of Industrial Relations may waive the fee
39 set forth in subdivision (b) for a board that has previously been
40 granted approval by the director to initiate and operate a labor

1 compliance program on its projects, and that requests to continue
2 to operate the labor compliance program on its projects in lieu of
3 labor compliance by the department pursuant to subdivision (b)
4 of Section 1771.55. This fee shall not be waived for a board that
5 contracts with a third party to initiate and enforce labor compliance
6 programs on the board's projects.

7 (c) As used in this section:

8 (1) "Best value" means a value determined by objective criteria
9 related to price, features, functions, and life-cycle costs.

10 (2) "Design-build" means a procurement process in which both
11 the design and construction of a project are procured from a single
12 entity.

13 (3) "Design-build entity" means a partnership, corporation, or
14 other legal entity that is able to provide appropriately licensed
15 contracting, architectural, and engineering services as needed
16 pursuant to a design-build contract.

17 (4) "Project" means those infrastructure improvements
18 authorized in Sections 33421, 33445, and 33445.1 of the Health
19 and Safety Code and subject to the limitations and conditions on
20 that authority described in Article 10 (commencing with Section
21 33420) and Article 11 (commencing with Section 33430) of
22 Chapter 4 of Part 1 of Division 24 of the Health and Safety Code.

23 (d) Design-build projects shall progress in a four-step process,
24 as follows:

25 (1) (A) The agency shall prepare a set of documents setting
26 forth the scope of the project. The documents may include, but are
27 not limited to, the size, type, and desired design character of the
28 public improvement, performance specifications covering the
29 quality of materials, equipment, and workmanship, preliminary
30 plans or building layouts, or any other information deemed
31 necessary to describe adequately the agency's needs. The
32 performance specifications and any plans shall be prepared by a
33 design professional who is duly licensed and registered in
34 California.

35 (B) Any architect or engineer retained by the agency to assist
36 in the development of the project specific documents shall not be
37 eligible to participate in the preparation of a bid with any
38 design-build entity for that project.

39 (2) (A) Based on the documents prepared as described in
40 paragraph (1), the agency shall prepare a request for proposals that

invites interested parties to submit competitive sealed proposals in the manner prescribed by the agency. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the agency to inform interested parties of the contracting opportunity, to include the methodology that will be used by the agency to evaluate proposals and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice-related factors.

(iii) The relative importance of the weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the agency chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately or incorporate into the request for proposal applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The agency shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the agency. In preparing the questionnaire, the agency shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability,

1 and capacity to complete, projects of similar size, scope, or
2 complexity, and that proposed key personnel have sufficient
3 experience and training to competently manage and complete the
4 design and construction of the project, as well as a financial
5 statement that assures the agency that the design-build entity has
6 the capacity to complete the project.

7 (iii) The licenses, registration, and credentials required to design
8 and construct the project, including information on the revocation
9 or suspension of any license, credential, or registration.

10 (iv) Evidence that establishes that the design-build entity has
11 the capacity to obtain all required payment and performance
12 bonding, liability insurance, and errors and omissions insurance.

13 (v) Any prior serious or willful violation of the California
14 Occupational Safety and Health Act of 1973, contained in Part 1
15 (commencing with Section 6300) of Division 5 of the Labor Code,
16 or the federal Occupational Safety and Health Act of 1970 (P.L.
17 91-596), settled against any member of the design-build entity,
18 and information concerning workers' compensation experience
19 history and worker safety program.

20 (vi) Information concerning any debarment, disqualification,
21 or removal from a federal, state, or local government public works
22 project. Any instance in which an entity, its owners, officers, or
23 managing employees submitted a bid on a public works project
24 and were found to be nonresponsive, or were found by an awarding
25 body not to be a responsible bidder.

26 (vii) Any instance in which the entity, or its owners, officers,
27 or managing employees, defaulted on a construction contract.

28 (viii) Any violations of the Contractors' State License Law
29 (Chapter 9 (commencing with Section 7000) of Division 3 of the
30 Business and Professions Code), including alleged violations of
31 federal or state law including the payment of wages, benefits,
32 apprenticeship requirements, or personal income tax withholding,
33 or of Federal Insurance Contributions Act (FICA) withholding
34 requirements settled against any member of the design-build entity.

35 (ix) Information concerning the bankruptcy or receivership of
36 any member of the design-build entity, including information
37 concerning any work completed by a surety.

38 (x) Information concerning all settled adverse claims, disputes,
39 or lawsuits between the owner of a public works project and any
40 member of the design-build entity during the five years preceding

1 submission of a bid pursuant to this section, in which the claim,
2 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
3 Information shall also be provided concerning any work completed
4 by a surety during this period.

5 (xi) In the case of a partnership, joint venture, or an association
6 that is not a legal entity, a copy of the agreement creating the
7 partnership or association and specifying that all general partners,
8 joint venturers, or association members agree to be fully liable for
9 the performance under the design-build contract.

10 (B) The information required pursuant to this subdivision shall
11 be verified under oath by the entity and its members in the manner
12 in which civil pleadings in civil actions are verified. Information
13 that is not a public record pursuant to the California Public Records
14 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
15 of Title 1 of the Government Code) shall not be open to public
16 inspection.

17 (4) The agency shall establish a procedure for final selection of
18 the design-build entity. Selection shall be based on either of the
19 following criteria:

20 (A) A competitive bidding process resulting in lump-sum bids
21 by the prequalified design-build entities. Awards shall be made to
22 the lowest responsible bidder.

23 (B) An agency may use a design-build competition based upon
24 best value and other criteria set forth in paragraph (2). The
25 design-build competition shall include the following elements:

26 (i) Competitive proposals shall be evaluated by using only the
27 criteria and selection procedures specifically identified in the
28 request for proposal. However, the following minimum factors
29 shall each represent at least 10 percent of the total weight of
30 consideration given to all criteria factors: price, technical design
31 and construction expertise, life-cycle costs over 15 years or more,
32 skilled labor force availability, and acceptable safety record.

33 (ii) Once the evaluation is complete, the top three responsive
34 bidders shall be ranked sequentially from the most advantageous
35 to the least.

36 (iii) The award of the contract shall be made to the responsible
37 bidder whose proposal is determined, in writing, to be the most
38 advantageous.

39 (iv) Notwithstanding any provision of this code, upon issuance
40 of a contract award, the agency shall publicly announce its award,

1 identifying the contractor to whom the award is made, along with
2 a written decision supporting its contract award and stating the
3 basis of the award. The notice of award shall also include the
4 agency's second- and third-ranked design-build entities.

5 (v) For purposes of this paragraph, skilled labor force availability
6 shall be determined by the existence of an agreement with a
7 registered apprenticeship program, approved by the California
8 Apprenticeship Council, which has graduated apprentices in each
9 of the preceding five years. This graduation requirement shall not
10 apply to programs providing apprenticeship training for any craft
11 that has been deemed by the Department of Labor and the
12 Department of Industrial Relations to be an apprenticeable craft
13 in the five years prior to enactment of this act.

14 (vi) For purposes of this paragraph, a bidder's safety record
15 shall be deemed acceptable if its experience modification rate for
16 the most recent three-year period is an average of 1.00 or less, and
17 its average total recordable injury/illness rate and average lost
18 work rate for the most recent three-year period does not exceed
19 the applicable statistical standards for its business category or if
20 the bidder is a party to an alternative dispute resolution system as
21 provided for in Section 3201.5 of the Labor Code.

22 (e) (1) Any design-build entity that is selected to design and
23 build a project pursuant to this section shall possess or obtain
24 sufficient bonding to cover the contract amount for nondesign
25 services, and errors and omission insurance coverage sufficient to
26 cover all design and architectural services provided in the contract.
27 This section does not prohibit a general or engineering contractor
28 from being designated the lead entity on a design-build entity for
29 the purposes of purchasing necessary bonding to cover the activities
30 of the design-build entity.

31 (2) Any payment or performance bond written for the purposes
32 of this section shall be written using a bond form developed by
33 the agency.

34 (f) All subcontractors that were not listed by the design-build
35 entity in accordance with clause (i) of subparagraph (A) of
36 paragraph (3) of subdivision (d) shall be awarded by the
37 design-build entity in accordance with the design-build process
38 set forth by the agency in the design-build package. All
39 subcontractors bidding on contracts pursuant to this section shall
40 be afforded the protections contained in Chapter 4 (commencing

1 with Section 4100) of Part 1. The design-build entity shall do both
2 of the following:

3 (1) Provide public notice of the availability of work to be
4 subcontracted in accordance with the publication requirements
5 applicable to the competitive bidding process of the agency.

6 (2) Provide a fixed date and time on which the subcontracted
7 work will be awarded in accordance with the procedure established
8 pursuant to this section.

9 (g) The minimum performance criteria and design standards
10 established pursuant to paragraph (1) of subdivision (d) shall be
11 adhered to by the design-build entity. Any deviations from those
12 standards may only be allowed by written consent of the agency.

13 (h) The agency may retain the services of a design professional
14 or construction project manager, or both, throughout the course of
15 the project in order to ensure compliance with this section.

16 (i) Contracts awarded pursuant to this section shall be valid until
17 the project is completed.

18 (j) Nothing in this section is intended to affect, expand, alter,
19 or limit any rights or remedies otherwise available at law.

20 (k) (1) If the agency elects to award a project pursuant to this
21 section, retention proceeds withheld by the agency from the
22 design-build entity shall not exceed 5 percent if a performance and
23 payment bond, issued by an admitted surety insurer, is required in
24 the solicitation of bids.

25 (2) In a contract between the design-build entity and the
26 subcontractor, and in a contract between a subcontractor and any
27 subcontractor thereunder, the percentage of the retention proceeds
28 withheld shall not exceed the percentage specified in the contract
29 between the agency and the design-build entity. If the design-build
30 entity provides written notice to any subcontractor who is not a
31 member of the design-build entity, prior to or at the time the bid
32 is requested, that a bond may be required and the subcontractor
33 subsequently is unable or refuses to furnish a bond to the
34 design-build entity, then the design-build entity may withhold
35 retention proceeds in excess of the percentage specified in the
36 contract between the agency and the design-build entity from any
37 payment made by the design-build entity to the subcontractor.

38 (l) Each agency that elects to proceed under this section and
39 uses the design-build method on a public works project shall submit
40 to the Legislative Analyst's Office before December 1, 2014, a

1 report containing a description of each public works project
2 procured through the design-build process after January 1, 2010,
3 and before November 1, 2014. The report shall include, but shall
4 not be limited to, all of the following information:

- 5 (1) The type of project.
- 6 (2) The gross square footage of the project.
- 7 (3) The design-build entity that was awarded the project.
- 8 (4) Where appropriate, the estimated and actual length of time
9 to complete the project.
- 10 (5) The estimated and actual project costs.
- 11 (6) A description of any written protests concerning any aspect
12 of the solicitation, bid, proposal, or award of the design-build
13 project, including the resolution of the protests.
- 14 (7) An assessment of the prequalification process and criteria.
- 15 (8) An assessment of the effect of retaining 5-percent retention
16 on the project.
- 17 (9) A description of the labor force compliance program and an
18 assessment of the project impact, where required.
- 19 (10) A description of the method used to award the contract. If
20 best value was the method, the report shall describe the factors
21 used to evaluate the bid, including the weighting of each factor
22 and an assessment of the effectiveness of the methodology.
- 23 (11) An assessment of the project impact of skilled labor force
24 availability.
- 25 (12) An assessment of the design-build dollar limits on agency
26 projects. This assessment shall include projects where the agency
27 wanted to use design-build and was precluded by the dollar
28 limitation. This assessment shall also include projects where the
29 best value method was not used due to dollar limitations.
- 30 (13) An assessment of the most appropriate uses for the
31 design-build approach.
- 32 (m) (1) In order to comply with paragraph (2) of subdivision
33 (a), the State Public Works Board is required to maintain the list
34 of agencies that have applied and are eligible to be qualified for
35 this authority.
- 36 (2) Each agency that is interested in proceeding under the
37 authority in this section must apply to the State Public Works
38 Board. The application to proceed shall be in writing and contain
39 such information that the State Public Works Board may require.

1 (3) The State Public Works Board shall approve or deny an
2 application, in writing, within 90 days of the submission of a
3 complete application. The authority to deny an application shall
4 only be exercised if the condition set forth in paragraph (2) of
5 subdivision (a) has been satisfied.

6 (4) An agency that has applied for this authorization shall, after
7 it determines it no longer is interested in using this authority, notify
8 the State Public Works Board in writing within 30 days of its
9 determination. Upon notification, the State Public Works Board
10 may contact any previous applicants, denied pursuant to paragraph
11 (2) of subdivision (a), to inform them of the availability to proceed
12 under this section.

13 (5) The State Public Works Board may authorize no more than
14 10 projects. The board shall not authorize or approve more than
15 two projects for any one eligible redevelopment agency that
16 submits a completed application.

17 (6) The State Public Works Board shall notify the Legislative
18 Analyst's Office when 10 projects have been approved.

19 (n) On or before January 1, 2015, the Legislative Analyst shall
20 report to the Legislature on the use of the design-build method by
21 agencies pursuant to this section, including the information listed
22 in subdivision (l). The report may include recommendations for
23 modifying or extending this section.

24 (o) Except as provided in this section, nothing in this act shall
25 be construed to affect the application of any other law.

26 (p) This section shall remain in effect only until January 1, 2016,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2016, deletes or extends that date.

29 SEC. 35. Section 20998 is added to the Public Contract Code,
30 to read:

31 20998. The board of supervisors of the district may, by
32 ordinance, resolution, or board order, authorize the chief engineer
33 or other district officer to order changes or additions in the work
34 being performed under contracts made pursuant to this article in
35 an amount not to exceed:

36 (a) For contracts whose original cost is less than fifty thousand
37 dollars (\$50,000), the amount of the change or addition shall not
38 exceed five thousand dollars (\$5,000).

39 (b) For contracts whose original cost is fifty thousand dollars
40 (\$50,000), but less than two hundred fifty thousand dollars

1 (\$250,000), the amount of the change or addition shall not exceed
2 10 percent of the amount of the cost of the original contract.

3 (c) For contracts whose original cost is two hundred fifty
4 thousand dollars (\$250,000) or more, the amount of the change or
5 addition shall not exceed twenty-five thousand dollars (\$25,000),
6 plus 5 percent of the amount of the cost of the original contract
7 that is in excess of two hundred fifty thousand dollars (\$250,000).
8 In no event shall any change or addition exceed two hundred ten
9 thousand dollars (\$210,000).

10 SEC. 35.5. Section 5788.17 of the Public Resources Code is
11 amended to read:

12 5788.17. (a) A district may accept any revenue, money, grants,
13 goods, or services from any federal, state, regional, or local agency
14 or from any person for any lawful purpose of the district.

15 (b) In addition to any other existing authority, a district may
16 borrow money and incur indebtedness pursuant to Article 7
17 (commencing with Section 53820), Article 7.4 (commencing with
18 Section 53835), Article 7.5 (commencing with Section 53840),
19 Article 7.6 (commencing with Section 53850), and Article 7.7
20 (commencing with Section 53859) of Chapter 4 of Part 1 of
21 Division 2 of Title 5 of the Government Code.

22 SEC. 36. Section 21167.9 is added to the Public Resources
23 Code, to read:

24 21167.9. Any action brought in the superior court relating to
25 this division may be subject to a mediation proceeding conducted
26 pursuant to Chapter 9.3 (commencing with Section 66030) of
27 Division 1 of Title 7 of the Government Code.

28 SEC. 37. Section 21670.6 is added to the Public Utilities Code,
29 to read:

30 21670.6. Any action brought in the superior court relating to
31 this article may be subject to a mediation proceeding conducted
32 pursuant to Chapter 9.3 (commencing with Section 66030) of
33 Division 1 of Title 7 of the Government Code.

34 SEC. 37.3. Section 29236 is added to the Public Utilities Code,
35 to read:

36 29236. In addition to any other existing authority, the district
37 may borrow money and incur indebtedness pursuant to Article 7.4
38 (commencing with Section 53835) of Chapter 4 of Part 1 of
39 Division 2 of Title 5 of the Government Code.

1 SEC. 37.5. Section 99.02 of the Revenue and Taxation Code
2 is amended to read:

3 99.02. (a) For the purposes of the computations required by
4 this chapter for the 1985–86 fiscal year and fiscal years thereafter,
5 in the case of any transfer of property tax revenues between local
6 agencies that is adopted and approved in conformity with
7 subdivisions (b) and (c), the auditor shall adjust the allocation of
8 property tax revenue determined pursuant to Section 96.1 or its
9 predecessor section, or the annual tax increment determined
10 pursuant to Section 96.5 or its predecessor section, for those local
11 agencies whose allocation would be altered by the transfer.

12 (b) Commencing with the 1985–86 fiscal year, any local agency
13 may, by the adoption of a resolution of its governing body or
14 governing board, determine to transfer any portion of its property
15 tax revenues that is allocable to one or more tax rate areas within
16 the local agency to one or more other local agencies having the
17 same tax rate area or tax rate areas. Upon the local agency's
18 adoption of the resolution, the local agency shall notify the board
19 of supervisors of the county or the city council of the city within
20 which the transfer of property tax revenues is proposed.

21 (c) If the board of supervisors or the city council concurs with
22 the proposed transfer of property tax revenue, the board or council
23 shall, by resolution, notify the county auditor of the approved
24 transfer.

25 (d) Upon receipt of notification from the board of supervisors
26 or the city council, the county auditor shall make the necessary
27 adjustments specified in subdivision (a).

28 (e) Prior to the adoption or approval by any local agency of a
29 transfer of property tax revenues pursuant to this section, each
30 local agency that will be affected by the proposed transfer shall
31 hold a public hearing to consider the effect of the proposed transfer
32 on fees, charges, assessments, taxes, or other revenues. Notice of
33 the hearing shall be published pursuant to Section 6061 of the
34 Government Code in one or more newspapers of general circulation
35 within each affected local agency.

36 (f) No local agency shall transfer property tax revenue pursuant
37 to this section unless each of the following conditions exists:

38 (1) The transferring agency determines that revenues are
39 available for this purpose.

1 (2) The transfer will not result in any increase in the ratio
2 between the amount of revenues of the transferring agency that
3 are generated by regulatory licenses, use charges, user fees, or
4 assessments and the amount of revenues of the transferring agency
5 used to finance services provided by the transferring agency.

6 (3) The transfer will not impair the ability of the transferring
7 agency to provide existing services.

8 (4) The transfer will not result in a reduction of property tax
9 revenues to school entities.

10 SEC. 38. Section 35424 of the Water Code is amended to read:

11 35424. After equitable rules and regulations for the distribution
12 of water have been published once a week for two weeks in a
13 newspaper of general circulation published in each affected county,
14 any violation thereof is a misdemeanor and the violator shall, upon
15 conviction thereof, be subject to a fine of not less than fifty dollars
16 (\$50) and not more than two hundred dollars (\$200). When
17 equitable rules and regulations for the distribution of water are
18 amended, the district may publish a summary of the amendments
19 to the rules and regulations with an Internet address and a physical
20 location where the complete text of the amended rules and
21 regulations may be viewed.

22 SEC. 39. Section 50655 of the Water Code is amended to read:

23 50655. The board may adopt and alter a seal.

24 SEC. 40. Section 50656 of the Water Code is amended to read:

25 50656. All documents requiring approval by the board shall
26 bear the signature of either a trustee or the secretary.

27 SEC. 41. Section 3.2 of the North Delta Water Agency Act
28 (Chapter 283 of the Statutes of 1973) is amended to read:

29 SEC. 3.2. The board shall consist of five members, one from
30 each of the five divisions in the agency, and each of whom shall
31 be an owner of real property, or the legal representative of real
32 property, within the respective division he or she represents. The
33 board members shall be elected by divisions, elected only by the
34 voters of that division, and not at large.

35 ~~SEC. 43.~~

36 SEC. 42. The amendment of Sections 25214.2 and 61116 of
37 the Government Code, Sections 2074, 9074, 13897, and 40526 of
38 the Health and Safety Code, and Section 5788.17 of the Public
39 Resources Code, and the addition of Section 29236 to the Public

- 1 Utilities Code made by this act do not constitute changes in, but
- 2 are declaratory of, existing law.

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